

Panaji, 6th December, 2007 (Agrahayana 15, 1929)

SERIES I No. 36

# OFFICIAL GOVERNMENT OF GOA GAZETTE



Note: There are three Extraordinary issues to the Official Gazette, Series I No. 35 dated 29-11-2007 as follows:—

- 1) Extraordinary dated 29-11-2007 from pages 1271 to 1272 regarding Notification from Department of Finance (Revenue & Control Division).
- 2) Extraordinary (No. 2) dated 30-11-2007 from pages 1273 to 1274 regarding Notification from Department of Finance (Revenue & Control Division).
- 3) Extraordinary (No. 3) dated 5-12-2007 from pages 1275 to 1276 regarding Notification from Department of Law & Judiciary (Legal Affairs Division).

## GOVERNMENT OF GOA

### Department of Law & Judiciary

Law (Establishment) Division

#### Order

1-29-8/91-LD/PART-II/1451

Read:- 1 Government Order No. 1-29-8/91-LD/PART-II/(2) dated 03-04-2006.

Refer:- (i) Hon'ble Supreme Court Order dated 10-01-2007 in Writ Petition (Civil) No.(s). 1022 of 1989, and

(ii) Hon'ble Supreme Court Order dated 07-02-2006 in Civil Appeal No(s). 4301 of 2002.

In continuation to the Government Order referred to above, the Government of Goa is pleased to extend the Medical facilities to every retired Judicial Officer of the State of Goa, as follows, with immediate effect.

1. The Health Department shall notify the list of Hospitals/Dispensaries, both Government and private, in each City/District Headquarters and Taluka for treatment of retired Judicial Officers.
2. The retired Judicial Officers shall be entitled to claim reimbursement of medical expenses

incurred in such notified Hospitals/Dispensaries.

3. The reimbursement of medical expenses incurred by the retired Judicial Officer shall be to the same extent as are entitled to the State Government employees, under the rules applicable to them.
4. There shall not be any restriction on reimbursement except to the extent of in-patient room entitlement.
5. The district Judge shall be the Countersigning Authority for such reimbursement of medical bills.
6. All claims for reimbursement should be accompanied by an "Essentiality Certificate" supported by the prescription, vouchers or cash memos.

This issues with the concurrence of Finance (Exp.) Department vide their U. O. No. 1159 dated 06-05-2007.

By order and in the name of the Governor of Goa.

N. V. Prabhu Dessai, Under Secretary (Estt.).

Porvorim, 21st November, 2007.

Legal Affairs Division

#### Notification

10/2/2007-LA

The Central Educational Institutions (Reservation in Admission) Act, 2006 (Central Act No. 5 of 2007), which has been passed by the Parliament and assented to by the President

of India on 03-01-2007 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 04-01-2007, is hereby published for general information of the public.

Sharad G. Marathe, Joint Secretary (Law).

Porvorim, 18th July, 2007.

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THE CENTRAL EDUCATIONAL INSTITUTIONS  
(RESERVATION IN ADMISSION) ACT, 2006

AN

ACT

*to provide for the reservation in admission of the students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes of citizens, to certain Central Educational Institutions established, maintained or aided by the Central Government, and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Central Educational Institutions (Reservation in Admission) Act, 2006.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “academic session” means the period in a calendar year, or a part thereof, during which a Central Educational Institution is open for teaching or instructions in any branch of study or faculty;

(b) “annual permitted strength” means the number of seats, in a course or programme for teaching or instruction in each branch of study or faculty authorised by an appropriate authority for admission of students to a Central Educational Institutions;

(c) “appropriate authority” means the University Grants Commission, the Bar Council of India, the Medical Council of India, the All India Council for Technical Education or any other authority or body established by or under a Central Act for the determination, co-ordination or maintenance of the standards of higher education in any Central Educational Institution;

(d) “Central Educational Institution” means—

(i) a university established or incorporated by or under a Central Act;

(ii) an institution of national importance set up by an Act of Parliament;

(iii) an institution, declared as a deemed University under section 3 of the University Grants Commission Act, 1956, and maintained by or receiving aid from the Central Government; <sup>3 of 1956.</sup>

(iv) an institution maintained by or receiving aid from the Central Government, whether directly or indirectly, and affiliated to an institution referred to in clause (i) or clause (ii), or a constituent unit of an institution referred to in clause (iii) ;

(v) an educational institution set up by the Central Government under the Societies Registration Act, 1860; <sup>21 of 1860.</sup>

(e) “faculty” means the faculty of a Central Educational Institution;

(f) “Minority Educational Institution” means an institution established and administered by the minorities under clause (1) of article 30 of the Constitution and so declared by an Act of Parliament or by the Central Government or declared as a Minority Educational Institution under the National Commission for Minority Educational Institutions Act, 2004; <sup>2 of 2005.</sup>

(g) “Other Backward Classes” means the class or classes of citizens who are socially and educationally backward, and are so determined by the Central Government;

(h) “Scheduled Castes” means the Scheduled Castes notified under article 341 of the Constitutions;

(i) “Scheduled Tribes” means the Scheduled Tribes notified under article 342 of the Constitutions;

(j) “teaching or instruction in any branch of study” means teaching or instruction in a branch of study leading to three principal levels of qualifications at bachelor (undergraduate) masters (postgraduate) and doctoral levels.

**3. Reservation of seats in Central Educational Institutions.**— The reservation of seats in admission and its extent in a Central Educational Institution shall be provided in the following manner, namely:—

(i) out of the annual permitted strength in each branch of study or faculty, fifteen per cent. seats shall be reserved for the Scheduled Castes;

(ii) out of the annual permitted strength in each branch of study or faculty, seven and one-half per cent. seats shall be reserved for the Scheduled Tribes;

(iii) out of the annual permitted strength in each branch of study or faculty, twenty-seven per cent. seats shall be reserved for the Other Backward Classes.

**4. Act not to apply in certain cases.**— The provisions of section 3 of this Act shall not apply to—

(a) a Central Educational Institution established in the tribal areas referred to in the Sixth Schedule to the Constitution;

(b) the institutions of excellence, research institutions, institutions of national and strategic importance specified in the Schedule to this Act;

Provided that the Central Government may, as and when considered necessary, by notification in the Official Gazette, amend the Schedule;

(c) a Minority Educational Institution as defined in this Act;

(d) a course or programme at high levels of specialisation, including at the post-doctoral level, within any branch of study or faculty, which the Central Government may, in consultation with the appropriate authority, specify.

**5. Mandatory increase of seats.**—(1) Notwithstanding anything contained in clause (iii) of section 3 and in any other law for the time being in force, every Central Educational Institutions shall, with the prior approval of the appropriate authority, increase the number of seats in a branch of study or faculty over and above its annual permitted strength so that the number of seats, excluding those reserved for the

persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, is not less than the number of such seats available for the academic session immediately preceding the date of the coming into force of this Act.

(2) Where, on a representation by any Central Educational Institutions, the Central Government, in consultation with the appropriate authority, is satisfied that for reasons of financial, physical or academic limitations or in order to maintain the standards of education, the annual permitted strength in any branch of study or faculty of such institution cannot be increased for the academic session following the commencement of this Act, it may permit by notification in the Official Gazette, such institution to increase the annual permitted strength over a maximum period of three years beginning with the academic session following the commencement of this Act; and then, the extent of reservation for the Other Backward Classes as provided in clause (iii) of section 3 shall be limited for that academic session in such manner that the number of seats available to the Other Backward Classes for each academic session are commensurate with the increase in the permitted strength for each year.

**6. Reservation of seats in admissions to begin in calendar year, 2007.**— The Central Educational Institutions shall take all necessary steps, which are required in giving effect to the provisions of sections 3, 4 and 5 of this Act, for the purposes of reservation of seats in admissions to its academic sessions commencing on and from the calendar year, 2007.

**7. Laying of notifications before Parliament.**— Every notification made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

THE SCHEDULE  
[See section 4(b)]

S.No. Names of the Institutions of Excellence, etc.

1. Homi Bhabha National Institute, Mumbai and its constituent units, namely:—
  - (i) Bhabha Atomic Research Centre, Trombay;
  - (ii) Indira Gandhi Centre for Atomic Research, Kalpakkam;
  - (iii) Raja Ramanna Centre for Advanced Technology, Indore;
  - (iv) Institute for Plasma Research, Gandhinagar;
  - (v) Variable Energy Cyclotron Centre, Kolkata;
  - (vi) Saha Institute of Nuclear Physics, Kolkata;
  - (vii) Institute of Physics, Bhubaneswar;
  - (viii) Institute of Mathematical Sciences, Chennai;
  - (ix) Harish-Chandra Research Institute, Allahabad;
  - (x) Tata Memorial Centre, Mumbai.
2. Tata Institute of Fundamental Research, Mumbai.
3. North-Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong.
4. National Brain Research Centre, Manesar, Gurgaon.
5. Jawaharlal Nehru Centre for Advanced Scientific Research, Bangalore.
6. Physical Research Laboratory, Ahmedabad.
7. Space Physics Laboratory, Thiruvananthapuram.
8. Indian Institute of Remote Sensing, Dehradun.

**Notification**

10/2/2007-LA

The Administrative Tribunals (Amendment) Act, 2006 (Central Act No. 1 of 2007), which has been passed by the Parliament and assented to by the President of India on 29-12-2006 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 02-01-2007, is hereby published for general information of the public.

Sharad G. Marathe, Joint Secretary (Law).

Porvorim, 18th July, 2007.

The Administrative Tribunals (Amendment) Act,  
2006

AN

ACT

further to amend the Administrative Tribunals Act, 1985.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Administrative Tribunals (Amendment) Act, 2006.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. *Amendment of section 3.*— In section 3 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the principal Act),—

(I) in clause (i), for the words “the Chairman or a Vice-Chairman”, the words “the Chairman” shall be substituted.

(II) in clause (ia), the words “and a Vice-Chairman” shall be omitted.

(III) for clause (u), the following clause shall be substituted, namely:—

‘(u) “Vice-Chairman” means a Member who has been authorised by the appropriate Government to perform administrative functions at each of the places where Benches of the Tribunal have been set up.’.

3. *Amendment of section 4.*— In section 4 of the principal Act, in sub-section (4), for the words “Chairman, Vice-Chairman and other Members”, the words “Chairman and other Members” shall be substituted.

4. *Amendment of section 5.*— In section 5 of the principal Act,—

(a) in sub-section (1), for the words “a Chairman and such number of Vice-Chairman and Judicial and Administrative Members”, the words “a Chairman and such number of Judicial and Administrative Members” shall be substituted;

(b) in sub-section (4),—

(i) in clause (b), for the words “the Vice-Chairman or other Members”, the words “a Member” shall be substituted;

(ii) in clause (c),—

(I) For the words “the Vice-Chairman or the Judicial Member”, the words “the Judicial Member” shall be substituted;

(II) for the words “the Vice-Chairman or, as the case may be, the Judicial Member or the Administrative Member”, the words “the Judicial Member or the Administrative Member, as the case may be” shall be substituted.

5. *Substitution of new section for section 6.*— For section 6 of the principal Act, the following section shall be substituted, namely:—

“6. *Qualifications for appointment as Chairman, Vice-Chairman and other members.*— (1) A person shall not be qualified for appointment as the Chairman unless he is, or has been, a Judge of a High Court:

Provided that a person appointed as Vice-Chairman before the commencement of this Act shall be qualified for appointment as Chairman if such person has held the office of the Vice-Chairman at least for a period of two years.

(2) A person shall not be qualified for appointment,—

(a) as an Administrative Member, unless he has held for at least two years the post of Secretary to the Government of India or any other post under the Central or State Government and carrying the scale of pay which is not less than that of a Secretary to the Government of India for at least two years or held a post of Additional Secretary to the Government of India for at least five years or any other post under the Central or State Government carrying the scale of pay which is not less than that of Additional Secretary to the Government of India at least for a period of five years:

Provided that the officers belonging to All-India services who were or are on Central deputation to a lower post shall be deemed to have held the post of Secretary or Additional Secretary, as the case may be, from the date such officers were granted proforma promotion or actual promotion whichever is earlier to the level of Secretary or Additional Secretary, as the case may be, and the period spent on Central deputation

after such date shall count for qualifying service for the purposes of this clause;

(b) as a Judicial Member, unless he is or qualified to be a Judge of a High Court or he has for at least two years held the post of a Secretary to the Government of India in the Department of Legal Affairs or the Legislative Department including Member-Secretary, Law Commission of India or held a post of Additional Secretary to the Government of India in the Department of Legal Affairs and Legislative Department at least for a period of five years.

(3) The Chairman and every other Member of the Central Administrative Tribunal shall be appointed after consultation with the Chief Justice of India by the President.

(4) Subject to the provision of sub-section (3), the Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

(5) The Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the provisions of sub-section (3) and subject to the terms of the agreement between the participating State Governments published under sub-section (3) of section 4 of the principal Act, be appointed by the President after consultation with the Governors of the concerned States.

*Explanation.*— In computing for the purpose of this section, the period during which a person has held any post under the Central or State Government, there shall be included the period during which he has held any other post under the Central or State Government (including an office under this Act) carrying the same scale of pay as that of first mentioned post on a higher scale of pay.”.

6. *Amendment of section 7.*— In section 7 of the principal Act, for the words “Vice-Chairman or, as the case may be, such one of the Vice-Chairman”, the words “such one of the Members” shall be substituted.

7. *Substitution of new section for section 8.*— For section 8 of the principal Act, the following section shall be substituted, namely:—

"8. *Term of office.*— (1) The Chairman shall hold office as such for a term of five years from the date on which he enters upon his office:

Provided that no Chairman shall hold office as such after he has attained the age of sixty-eight years.

(2) A Member shall hold office as such for a term of five years from the date on which he enters upon his office extendable by one more term of five years:

Provided that no Member shall hold office as such after he has attained the age of sixty-five years.

(3) The conditions of service of Chairman and Members shall be the same as applicable to Judges of the High Court."

8. *Amendment of section 9.*— In section 9 of the principal Act, the word "Vice-Chairman" wherever it occurs shall be omitted.

9. *Amendment of section 10.*— In section 10 of the principal Act,—

(i) the word "Vice-Chairman" wherever it occurs shall be omitted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where a serving Government officer is appointed as a Member, he shall be deemed to have retired from the service to which he belonged on the date on which he assumed the charge of the Member but his subsequent service as Member shall, at his option, be reckoned as a post-retirement re-employment counting for pension and other retirement benefits in the service to which he belonged."

10. *Insertion of new section 10A.*— After section 10 of the principal Act, the following section shall be inserted, namely:—

"10A. *Saving terms and conditions of service of Vice-Chairman.*— The Chairman, Vice-Chairman and Member of a Tribunal appointed before the commencement of the Administrative Tribunals (Amendment) Act, 2006 shall continue to be governed by the provisions of the Act, and the rules made thereunder as if the Administrative Tribunals (Amendment) Act, 2006 had not come into force:

Provided that, however, such Chairman and the Members appointed before the coming into force of Administrative Tribunals (Amendment) Act, 2006, may on completion of their term or attainment of the age of sixty-five or sixty-two years, as the case may be, whichever is earlier may, if eligible in terms of section 8 as amended by the Administrative Tribunals (Amendment) Act, 2006 be considered for a fresh appointment in accordance with the selection procedure laid down for such appointments subject to the condition that the total term in office of the Chairman shall not exceed five years and that of the Members, ten years."

11. *Amendment of section 11.*— In section 11 of the principal Act,—

(I) in clause (b), the words "Vice-Chairman or" shall be omitted;

(II) clause (c) and clause (d) shall be omitted; and

(III) in clause (e), the words "or Vice-Chairman" at both the places where they occur shall be omitted;

(IV) in clause (f), the words "Vice-Chairman" at both the places where they occur shall be omitted.

12. *Substitution of new section for section 12.*— For section 12 of the principal Act, the following section shall be substituted, namely:—

"12. *Financial and administrative powers of the Chairman.*— (1) The Chairman shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules made by the appropriate Government.

(2) The appropriate Government may designate one or more Members to be the Vice-Chairman or, as the case may be, Vice-Chairman thereof and the Members so designated shall exercise such of the powers and perform such of the functions of the Chairman as may be delegated to him by the Chairman by a general or special order in writing."

13. *Amendment of section 31.*— In section 31 of the principal Act, for the words "Chairman, Vice-Chairman and other Members", the words

“Chairman and other Members”, shall be substituted.

14. *Amendment of section 32.*— In section 32 of the principal Act, the word “Vice-Chairman” wherever it occurs shall be omitted.

15. *Amendment of section 35.*— In section 35 of the principal Act, in sub-section (2),—

(i) in clause (b), for the words “Chairman, Vice-Chairman or other Member”, the words “Chairman or other Member” shall be substituted;

(ii) in clause (c), for the words “Chairman, Vice-Chairman and other Members”, the words “Chairman and other Members” shall be substituted.

### Notification

10/2/2007-LA

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act No. 2 of 2007), which has been passed by the Parliament and assented to by the President of India on 29-12-2006 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 02-01-2007, is hereby published for general information of the public.

*Sharad G. Marathe*, Joint Secretary (Law).

Porvorim, 18th July, 2007.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

AN

ACT

*to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.*

Whereas the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of

biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

And whereas the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

And whereas it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

### CHAPTER I

#### Preliminary

1. *Short title and commencement.*— (1) This Act may be called then Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “community forest resource” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established,

case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribes pastoralist communities;

(d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) "forest rights" means the forest rights referred to in section 3;

(f) "forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of

primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;

(n) "sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002; 18 of 2003.

(o) "other traditional forest dweller" means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

*Explanation.*— For the purpose of this clause, "generation" means a period comprising of twenty-five years;

(p) "village" means—

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or 40 of 1996.

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;



(q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972<sup>53</sup> of 1972. and found wild in nature.

## CHAPTER II

### Forest Rights

3. *Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers.*— (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified, or not, into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other Traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall<sup>69</sup> of 1980. provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:—

- (a) schools;
- (b) dispensary or hospital;
- (c) *anganwadis*;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres;

Provided that such diversion of forest land shall be allowed only if,—

(i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

### CHAPTER III

#### Recognition, Restoration and Vesting of Forest Rights and Related Matters

*4. Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.*— (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest right holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:—

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land

mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, <sup>69 of 1980.</sup> requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

5. *Duties of holders of forest rights.*— The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

#### CHAPTER IV

##### Authorities and Procedure for Vesting of Forest Rights

6. *Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional*

*forest dwellers and procedure thereof.*— (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the Departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribes members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

## CHAPTER V

### Offences and Penalties

*7. Offences by members or officers of authorities and Committees under this Act.*— Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had

exercised all due diligence to prevent the commission of such offence.

*8. Cognizance of offences.*— No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in a case of a dispute relating to a resolution of Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

## CHAPTER VI

### Miscellaneous

*9. Members of authorities, etc., to be public servants.*— Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

*10. Protection of action taken in good faith.*— (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

*11. Nodal agency.*— The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

*12. Power of Central Government to issue directions.*— In the performance of its duties

and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

13. *Act not in derogation of any other law.*— Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this <sup>40 of 1996.</sup> Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

14. *Power to make rules.*— (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as

soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### Notification

10/2/2007-LA

The National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 (Ordinance No. 6 of 2007), which has been promulgated by the President in the Fifty-eighth Year of the Republic of India and published in the Gazette of India, Extraordinary, Part II, Section 1, No. 37, dated 04-07-2007, is hereby published for general information of the public

*Julio B. Noronha*, Under Secretary (Law).

Porvorim, 25th July, 2007.

### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 4th July, 2007/Asadha 13, 1929 (Saka)*

### THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS (SPECIAL PROVISIONS) ORDINANCE, 2007

No. 6 of 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

*An Ordinance to make special provisions for the National Capital Territory of Delhi for a further period of one year and for matters connected therewith or incidental thereto.*

Whereas there had been phenomenal increase in the population of the National Capital Territory of Delhi owing to migration and other factors resulting in tremendous

pressure on land and infrastructure leading to encroachment or unauthorised developments which are not in consonance with the concept of planned development as provided in the Master Plan of Delhi-2001 and the relevant Acts and building bye-laws made thereunder;

And whereas Master Plan of Delhi-2001 has been extensively modified and notified by the Central Government on 7<sup>th</sup> February, 2007 with the perspective for the year 2021 keeping in view the emerging new dimensions in urban development *vis-a-vis* the social, financial and other ground realities;

And whereas Master Plan of Delhi with the perspective for the year 2021 specifically provides for strategies for housing for urban poor as well as to deal with the informal sector;

And whereas a revised policy for relocation and rehabilitation of slum dwellers in the National Capital Territory of Delhi is also under consideration of the Central Government;

And whereas a strategy and a scheme has been prepared by the local authorities in the National Capital Territory of Delhi for regulation of urban street vendors in accordance with the national policy for Urban Street Vendors/ Master Plan for Delhi-2021;

And whereas some time is required for making orderly arrangements in accordance with the revised policy for relocation and rehabilitation of slum dwellers of Delhi as well as for putting in place the scheme for regulation of urban street vendors in terms of the Master Plan of Delhi-2021 and also the national policy in this regard;

And whereas the Central Government is yet to take a considered view on the Policy regarding existing farm houses involving construction beyond permissible building limits and regarding schools, dispensaries, religious institutions and cultural institutions in rural areas built on agricultural land, *inter alia*, in the light of recommendations of the Expert Committees constituted by the Central Government in the year 2006;

And whereas the Delhi Laws (Special Provisions) Act, 2006 was 22 of 2006.

enacted on 19<sup>th</sup> May, 2006 to make special provisions for the areas of Delhi for a period of one year which lapsed on 18<sup>th</sup> May, 2007;

And whereas it is expedient to have a law in terms of the Master Plan of Delhi-2021, in continuation of the said Act for a further period of one year to provide temporary relief and to minimize avoidable hardship and irreparable loss to the people of the National Capital Territory of Delhi against any action by the concerned agency in respect of persons covered by the policies referred to above which are expected to be finalised within the period so extended;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the plan, scheme and policies aforesaid;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. *Short title, extent, commencement and duration.*— (1) This Ordinance may be called the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007.

(2) It extends to the National Capital Territory of Delhi.

(3) It shall be deemed to have come into force on the 19<sup>th</sup> day of May, 2007.

(4) It shall cease to have effect on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if this 10 of 1897. Ordinance had then been repealed by a Central Act.

2. *Definitions.*— (1) In this Ordinance, unless the context otherwise requires,—

(a) “building bye-laws” means bye-laws made under section 481 of the Delhi Municipal Corporation Act, 1957 or the bye-laws made 66 of 1957. under section 188, sub-section (3) of

section 189 and sub-section (1) of section 190 of the Punjab Municipal Act, 1911, as in force in New Delhi or the regulations made under sub-section (1) of section 57 of the Delhi Development Act, 1957, relating to buildings;

(b) "Delhi" means the entire area of the National Capital Territory of Delhi except the Delhi Cantonment as defined in clause (11) of section 2 of the Delhi Municipal Corporation Act, 1957;

(c) "encroachment" means unauthorised occupation of Government land or public land by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;

(d) "local authority" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957 or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 or the Delhi Development Authority established under the Delhi Development Act, 1957, legally entitled to exercise control in respect of the areas under their respective jurisdiction;

(e) "Master Plan" means the Master Plan for Delhi with the perspective for the year 2021 notified vide notification number S. O.141 (E) on 7<sup>th</sup> February, 2007 under the Delhi Development Act, 1957;

(f) "notification" means a notification published in the Official Gazette;

(g) "punitive action" means action taken by a local authority under the relevant law against unauthorised development and shall include demolition, sealing of premises and displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise;

(h) "relevant law" means in case of—

(i) the Delhi Development Authority, the Delhi Development Act, 1957;

(ii) the Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957; and

(iii) the New Delhi Municipal Council, the New Delhi Municipal Council Act, 1994;

(i) "unauthorised development" means use of land or use of building or construction of building carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes any encroachment.

(2) The words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Delhi Development Act, 1957, the Delhi Municipal Corporation Act, 1957 and the New Delhi Municipal Council Act, 1994.

3. *Enforcement to be kept in abeyance.* — (1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Central Government shall within a period of one year of the coming into effect of this Ordinance, take all possible measures to finalise norms, policy guidelines and feasible strategies to deal with the problem of encroachment or unauthorised development in the form of encroachment by slum dwellers and *Jhuggi-Jhopri* clusters, hawkers and urban street vendors, existing farm houses involving construction beyond permissible building limits, and schools, dispensaries, religious institutions, cultural institutions in rural areas built on agricultural land, as mentioned below:

(a) policy for relocation and rehabilitation of slum dwellers and *Jhuggi-Jhopri* clusters in accordance with provisions of Master Plan of Delhi-2021 to ensure development of Delhi in a sustainable, planned and humane manner;

(b) strategy for regulation of urban street vendors in consonance with the national policy for urban street vendors and hawkers as provided in Master Plan of Delhi-2021;

(c) policy regarding existing farm houses involving construction beyond permissible building limits; and

(d) policy regarding schools, dispensaries, religious institutions, cultural institutions in rural areas built on agricultural land.

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo* as on the 1<sup>st</sup> day of January, 2006 shall be maintained in respect of encroachment or unauthorised development mentioned in sub-section (1).

(3) All notices issued by any local authority for initiating action against encroachment or unauthorised development referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken during the said period of one year.

(4) Notwithstanding any other provision contained in this Ordinance, the Central Government may, at any time before the expiry of one year, withdraw the exemption by notification, in respect of encroachment or unauthorised development mentioned in sub-section (2) or sub-section (3), as the case may be.

4. *Provisions of this Ordinance not to apply in certain cases.*— During the period of operation of this Ordinance, no relief shall be available under the provisions of section 3 in respect of the following encroachment or unauthorised development, namely:—

(a) encroachment on public land except in those cases which are covered under clauses (a) and (b) of sub-section (1) of section 3;

(b) removal of slums and *Jhuggi-Jhompr*i dwellers and hawkers and urban street vendors, in accordance with the relevant policies approved by the Central Government for clearance of land required for specific public projects.

5. *Power of Central Government to give directions.*— The Central Government may, from time to time, issue such directions to the local authorities as it may deem fit, for giving effect to the provisions of this Ordinance and it shall be the duty of the local authorities, to comply with such directions.

6. *Repeal and savings.*— (1) The Delhi Laws (Special Provisions) Act, 2006 is hereby repealed.

(2) Notwithstanding such repeal, any thing done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

(A. P. J. ABDUL KALAM),  
President

(K. N. CHATURVEDI)  
Secy. to the Govt. of India.



## Department of Public Health

### Order

47/36/2007-I/PHD

Sanction of the Government is hereby accorded for creation of 14 (fourteen) posts of Investigators (Group "C": Pay Scale: Rs. 4000-100-6000) under Directorate of Health Services, Panaji-Goa by abolishing 14 posts of Compiler Checkers carrying the pay scale of Rs. 3050-4590 of Common Statistical Cadre.

The expenditure towards the above posts shall be debitable to the Budget Head "2210-Medical and Public Health; 01-Urban Health Services, Allopathy; 104-Medical Store Depot; 01-Medical Depot (Non Plan); 01-Salaries" and "2210-Medical and Public Health; 03-Rural Health Services; 103-PHCs Allopathy; 02-PHC (Plan); 01-Salaries".

This issues with the concurrence of the Administrative Reforms Department vide their U. O. No. 1825/F dated 30-11-2006 and concurrence of the Finance Secretary vide its U. O. No 702 dated 25-01-2007.

By order and in the name of the Governor of Goa.

Jessie Freitas, Under Secretary (Health-II).

Porvorim, 23rd November, 2007.